

REMARKS

Submission of Copies of References

This application is a divisional application of S.N. 09/552,619, which has now issued as U.S. Patent No. 6,649,341, an application examined by the same Examiner as the current application. This priority information was filed with the current application. Pursuant to 37 C.F.R. §1.98(d), Applicants are not required to submit the references filed with the earlier application. According to the M.P.E.P. §609.02, “[t] examiner will consider information which has been considered by the Office in a parent application when examining: . . . (B) a divisional application filed under 37 C.F.R. §1.53(b), A listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent.”

In an abundance of caution, Applicants are resubmitting the Information Disclosure Citation and an Information Disclosure Statement with this Amendment to ensure compliance with 37 C.F.R. §1.98.

Rejoinder if Group I Is Allowed

Applicants request the rejoinder of Claims 14-15 and 19 should the product claims of Claims 1-4 and 7 be found allowable, pursuant to M.P.E.P. §821.04. Claim 14 depends from Claim 7, Claim 15 depends from Claim 14, and amended Claim 19 depends from Claim 1. Thus the process claims all depend from product claims.

Rejection Under 35 U.S.C. §101.

Claims 1, 4, and 7 were rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. Claims 1, 4, and 7 have been amended to clarify that these products are “isolated” products as suggested by the Office. In light of these amendments, Applicants respectfully request that this rejection be withdrawn.

Objections to Form.

Heading for Description of Drawings:

Applicants respectfully submit that there is no statutory basis for this objection, nor are Applicants required to use a specific heading in an application. However, since Applicants have no objection to amending the heading to read "Brief Description of the Drawings" as suggested by the Office, we have amended this page of the Specification. (See, Appendix A, changes to Page 7)

Position of Statement of Claiming Benefit to Earlier Application:

Applicants respectfully submit that the statement claiming benefit from a prior application is the first sentence of the application. In addition, this priority information was submitted in an Application Data sheet. However, in an effort to move this application toward allowance, Applicants have removed the lines between the title and the first sentence. (See, Appendix A, changes to Page 1)

Claims 2, 3, and 7 Informalities:

Claims 2, 3, and 7 were found confusing due to the numbering of the nucleotides with reference to Fig. 1. Claims 2, 3, and 7 have been amended to reference all nucleotide numbers in accordance with SEQ ID NO:1, as suggested by the Office.

Applicants respectfully request that all the above objections be withdrawn in light of the amendments.

Rejections Under 35 U.S.C. §112

Claims 1-4 were rejected under 35 U.S.C. §112, as containing subject matter not described in the specification. In particular, the Office objected to the term "gene." The Office recognized that the specification discloses the polynucleotide sequence of SEQ

ID NO: 1, the hGR 1Ap/e human glucocorticoid receptor promoter 1A and exon 1A. In light of the amendments to Claims 1-4, Applicants respectfully submit that this rejection should be withdrawn.

Rejections Under 35 U.S.C. §102

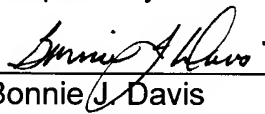
Claims 1-4 and 7 were rejected under 35 U.S.C. §102(b) as anticipated by Encio et al., 1991. The Office stated that “[t]he naturally occurring compounds encompassed by the claims are inherently contained in the cells disclosed by Encio.” However, the Office recognized that Encio did not disclose the “specific sequence of SEQ ID NO:1.”

Applicants respectfully submit that Claim 1-4, and 7 have now been amended to clarify that Applicants are claiming an isolated sequence, and not a naturally occurring gene. In light of these amendments to the Claims, Applicants request that this rejection be withdrawn.

Conclusion

In light of the current amendments and remarks above, Applicants respectfully submit that Claims 1- 4, and 7 are in condition for allowance. If Claims 1-4 and 7 are allowed, Applicants request rejoinder of Claims 14-15, and 19.

Respectfully submitted,



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